IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY APPLICATION No. 182 of 2007
In
COMPANY PETITION No. 157 of 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge?

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INDUSTRIAL DEVELOPMENT BANK OFINDIA - Applicant(s)
Versus
O.L. OF SHREE VALLABH GLASS WORKS LTD. & 14 - Respondent(s)

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Appearance :
MR BH BHAGAT for Applicant(s) : 1,
OFFICIAL LIQUIDATOR for Respondent(s) : 1,
MS AMEE YAJNIK for Respondent(s) : 1,
NOTICE SERVED BY DS for Respondent(s) : 2 - 10,12 - 13.
DS AFF.NOT FILED (N) for Respondent(s) : 11, 14,
- for Respondent(s) : 0.0.0

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 19/06/2007

ORAL JUDGMENT

1. Present Judges' Summons has been taken out by the applicant – Industrial Development Bank of India (“IDBI” for short) for an appropriate order directing the Official Liquidator of M/s. Shree Vallabh Glass Works Ltd. to disburse and pay an amount of Rs. 50 Crores approximately realized from the sale of the Assets and Properties of the Company in liquidation in appropriate proportion between the Secured Creditors and Workmen.

2. Earlier *vide* order dated 09.10.2006 on application being submitted by the applicant, this Court passed an order disbursing an amount of Rs. 5 Crores in favour of the Secured Creditor and this Court further passed an order directing the Official Liquidator to pay Rs. 5,000/- (Rupees Five Thousand only) to each Workman and an order was also passed that Rs. 5 Crores be paid to the IDBI and the IDBI was directed to make the payment to the respective Secured Creditors after deciding the percentage ratio inter-se and the amount payable to the ICICI be set apart by the IDBI and be deposited in a separate Bank Account as the application submitted by the Standard Chartered Bank for substitution in place of ICICI

Bank is pending. It is reported that accordingly Official Liquidator has made payment of Rs. 5 Crores to the IDBI. Shri Bhagat, learned Advocate appearing on behalf of the IDBI has submitted that Official Liquidator will be informed within a period of 3(three) days from today, how and what amount has been paid to the respective Secured Creditor and what is the amount deposited in the Separate Bank Account payable to the ICICI.

3. It is reported that so far as the amount payable to the respective Workmen i.e. Rs. 5,000/- (Rupees Five Thousand only), required to be paid pursuant to the order dated 09.10.2006, has not been paid to the respective Workmen as the Workers of the Company in Liquidation are represented by four different viz. (1) The Secretary, Shree Audhyogic Majoor Mahajan Sangh, Petlad, Dist. Anand. (2) The Secretary, Maharashtra Shramik Kamgar Union, C-3/C-8, MIDC Estate, Boisar, Dist. Thane. (3) The Secretary, Anand Kheda Zila Workers Union, Nr. Railway Station, Vallabh Vidhyanagar, Dist. Anand and (4) The Secretary, Workers Union, Shree Vallabh Glass Works

Ltd., Pushpak, 4th Floor, Khanpur, Ahmedabad. and there are approximately 2817 Workers of the Company in Liquidation and the concerned Unions are required to submit the claim in respect of each Workmen along with the affidavit of proof of debts. Therefore, the Official Liquidator has not been able to pay/ disburse an amount of Rs.5,000/- (Rupees Five Thousand only) to each Worker of the Company.

4. Considering the report submitted by the Official Liquidator dated 04.05.2007, funds available with the Official Liquidator and the earlier order dated 09.10.2006, the Official Liquidator is directed / permitted to disburse an amount of Rs. 40 (forty) Crores in ratio of 50 – 50 i.e. Rs.20 (Twenty) Crores to the Secured Creditors and Rs. 20 (Twenty) Crores to the Workers. Official Liquidator to make payment of Rs.20 (Twenty) Crores to IDBI as lead Bank/ Institute and IDBI is directed to make payment to the respective Secured Creditors after deciding the percentage ratio inter-se and after filing necessary usual Undertaking with the Official Liquidator by the IDBI as well as the Secured Creditors to the effect that if in future on finalisation of final percentage

ratio, if it is found that any excess amount is paid, the same shall be returned by the concerned Secured Creditor with the Official Liquidator within a period of 10(Ten) days from such determination / communication along with interest at the rate of 12%. It is further directed to the IDBI that the amount payable to the ICICI be set apart by the IDBI and be deposited in a Separate Bank Account as the application submitted by the Standard Chartered Bank for substitution in place of the ICICI Bank is pending and the said amount be paid to the ICICI Bank as and when an appropriate order is passed in the substitution application filed by the ICICI.

5. So far as the amount payable to the concerned Workers i.e. Rs. 20(Twenty) Crores as well as Rs.5,000/- (Rupees Five Thousand only) to each Worker (as per the order dated 09.10.2006) is concerned, the same shall be paid / disbursed amongst the concerned Worker on *ad-hoc* basis subject to final determination of the percentage ratio, on proper verification of the claims by the Chartered Accountant and on submission of necessary proof. Concerned Workers' Union are directed to lodge the

claims of each Worker along with necessary proof of debts and comply necessary requirements, so that claims of each Workmen can be verified and the aforesaid amount can be paid to the respective Workmen.

6. Shri Upadhyay, learned Advocate appearing on behalf of Respondent Nos. 12 and 15 – Worker's Union has submitted that so far as respondent Nos. 12 and 15 are concerned, they will be submitting the claims with respect to the Workers whom they represent along with necessary proof of debts within a period of 3(three) weeks from today and the Official Liquidator is directed to communicate to other Worker's Union to submit the claims on behalf of the Workers, whom they represent within a period of 3(three) weeks. Thereafter, Official Liquidator is directed to see that the claims of such Workers are verified by the Chartered Accountant and the report from the Chartered Accountant is obtained as early as possible but not later than 4(four) weeks from the date of receipt of the claims by the respective Workers. On getting report from the Chartered Account, Official Liquidator is directed to disburse an amount of

Rs.5,000/- (Rupees Five Thousand only) to each Worker (as per the order dated 09.10.2006) as well as Rs. 20(Twenty) Crores amongst the Workers whose claims are verified immediately within a period of 4(four) weeks thereafter. It is made clear that the aforesaid payment to the Secured Creditors as well as the Workers would be on purely *ad-hoc* basis and subject to final determination of percentage ratio. It will be open for the Official Liquidator to open Dividend Account for making payment of the aforesaid amount and/or to prematurely withdraw the Fixed Deposit. Official Liquidator is also directed to get the claims of the Secured Creditors verified by the Chartered Accountant along with the Worker's Claim and get final percentage ratio determined so that in future an appropriate order can be passed. With these, present Company Application is disposed of.

[M.R.Shah, J.]

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